



JESSICA L. BLOME
2748 Adeline Street, Suite A
Berkeley, CA 94703
Phone: (510) 900-9502
Email: jblome@greenfirelaw.com
www.greenfirelaw.com

July 31, 2024

Clerk of Court
c/o Hon. Judge Miranda M. Du
U.S. District Court
District of Nevada
333 Las Vegas Blvd. South
Las Vegas, NV 89101

**RE: *CANA Foundation, et al. v. Jon Raby, et al.* Case No. 2:22-cv-01200
Motions for Summary Judgment, Dkts. 50, 60**

To the Clerk of the Court:

Plaintiffs submit this letter under Federal Rule of Appellate Civil Procedure 28(j) to identify pertinent and significant information that has come to our attention since the parties' cross motions for summary judgment were fully submitted on May 31, 2024. *See* Dkt. 73, filed May 31, 2024, which is the last brief related to the above-referenced cross-motions for summary judgment.

This case challenges the legality of the U.S. Department of Interior and Bureau of Land Management's Environmental Assessment and Gather Plan authorizing the multi-year roundup of wild horses and burros located within the Blue Wing Complex of herd management areas (HMAs). The Blue Wing Complex consists of 2,200,000 total acres and five distinct HMAs or herd areas (HAs).

The BLM began its 2024 roundup of horses pursuant to the challenged plan on July 8, 2024. Over the course of July, Plaintiffs discovered that BLM did not conduct a census of the HMAs and HAs of the Blue Wing Complex before initiating roundup actions. As a result, the target numbers for the July 2024 removal action are based on assumptions BLM made regarding the horse population since its August 2022 action, without any physical confirmation of the validity of those assumptions. I am attaching a letter from BLM Public Affairs Specialist Jason Lutterman, dated July 30, 2024, in which he explains how BLM arrived at its population estimate, including its assumptions related to the foaling season despite an "extreme" winter.

Plaintiffs requested that BLM stop the roundup at Blue Wing to conduct a census before continuing to gather horses, an action it took this month at the North Lander Complex in

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Wyoming. But BLM has said it will not stop the roundup, despite Plaintiffs' concern and this pending litigation.

BLM took a different approach at the North Lander Complex earlier this month. There, after the public raised concerns about an inaccurate herd population estimate, BLM stopped gather operations shy of its removal goal and performed a census. BLM discovered its herd population modeling had been wrong, and the target number was too high. BLM is now holding gathered horses until it can determine how many should be released back into the North Lander Complex.

Plaintiffs challenged the accuracy of the population estimate and removal targets by challenging the Appropriate Management Level, or AML, in this litigation. Plaintiffs also raised concerns about the fragility of the genetic viability of the horses and burros in the Blue Wing Complex, who are being removed at an unnecessarily drastic rate given Plaintiffs' legitimate concerns about the population estimate and modeling approach BLM used in North Lander and is now deploying at Blue Wing.

Plaintiffs believe this newly discovered information is pertinent and significant to the parties' Cross Motions for Summary Judgment and files this Rule 28j letter to aid the court in its evaluation of the merits of Plaintiffs' motion.

Respectfully submitted,



Jessica L. Blome
GREENFIRE LAW, PC

Cc: Michelle Spatz

On Tue, Jul 30, 2024 at 11:30 AM Lutterman, Jason W <jlutterman@blm.gov> wrote:

Hi Laura,

Thank you for submitting questions regarding the ongoing Blue Wing Complex wild horse and burro gather. The BLM Nevada, Humboldt River Field Office conducted an aerial survey of wild horses and burros in May 2023. After that survey, the BLM estimated that there were 1,783 wild horses and 459 wild burros within and outside the Complex. The BLM then added the 2024 foal crop which is assumed to be approximately 7% for horses and 4% for burros, based on BLM's on-the-ground monitoring. The low number of foals is attributed to the previous winter's extreme weather and deteriorating range conditions. Together, that totals 1,912 wild horses and 476 burros, as reflected on the BLM's website for the 2024 Blue Wing Complex gather at <https://www.blm.gov/programs/wild-horse-and-burro/herd-management/gathers-and-removals/nevada-winnemucca-do/2024-blue>. BLM plans to gather and remove 1,373 excess wild horses and 356 excess burros. Accordingly, the BLM did perform an aerial survey and will not remove wild horses and burros below AML, which is 333-555 horses and 55-90 burros.

Thanks,

Jason

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Jason Lutterman

Public Affairs Specialist

National Wild Horse and Burro Program
Bureau of Land Management

Reno, Nevada

Office: (775) 861-6614

Mobile: (202) 304-0967

From: WildHorseEducation <wildhorseeducation@gmail.com>
Sent: Friday, July 26, 2024 6:20 AM
To: Lutterman, Jason W <jlutterman@blm.gov>
Subject: [EXTERNAL] Census

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

I am getting a lot of questions from the public about "How does BLM do a census" and "Why are methods so different" from district to district.

Example:

We all knew North Lander was taking too many animals in the target zone. North Lander stopped a bit before the target hit, flew and stopped roundup pending release numbers.

Blue Wing is slamming numbers far below AML (that is even lower on much more territory) . BLM NV refuses to do a census.

BLM NV did not even do a census between the roundup last year and this roundup.

Can you point me to a page where I can explain why BLM did no census between the two roundups at Blue Wing and where not doing one now as they do below AML.. is policy?

Thanks.

Laura

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Laura Leigh

Wild Horse Education

<http://wildhorseeducation.org>

“Educating the mind without educating the heart is no education at all.”
— Aristotle

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Laura Leigh

Wild Horse Education
<http://wildhorseeducation.org>

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Laura Leigh

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